

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOVANNI G. WHYTE,

Plaintiff,

-against-

ORDER

20-CV-00240 (JMA) (AYS)

SUFFOLK COUNTY,

Defendant.

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JOAN M. AZRACK, District Judge:

On January 14, 2020, *pro se* plaintiff Jovanni G. Whyte filed a complaint against Suffolk County together with an incomplete application to proceed *in forma pauperis*. Accordingly, by Notice of Deficiency dated January 15, 2020, plaintiff was instructed to complete and return the enclosed application to proceed *in forma pauperis* within fourteen (14) in order for his case to proceed. (ECF No. 5.) On January 29, 2020, plaintiff filed another application to proceed *in forma pauperis*. By Order dated February 27, 2020, the applications to proceed *in forma pauperis* were denied without prejudice and with leave to renew upon completion of the AO 239 *in forma pauperis* application form (“Long Form”) within fourteen (14) days from the date of the Order. (ECF No. 8.) Plaintiff was also advised that, alternatively, he could remit the \$400.00 filing fee. (*Id.*) The Order further cautioned that a failure to timely comply with this Order will lead to the dismissal of the complaint without prejudice and judgment will enter. (*Id.*)

Having failed to comply and in light of the national emergency caused by the COVID-19 virus, on April 13, 2020, the Court further extended the time for plaintiff to Long Form through May 1, 2020. (*See* ECF No. 9.) The Order “cautioned that failure to [timely comply] [] will lead to the dismissal of his complaint without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b), and judgment will enter.” (*Id.*) To date, plaintiff has not filed the

Long Form, nor has he otherwise communicated with the Court about this case since January 2020.

Accordingly, as it appears plaintiff is no longer interested in pursuing this case, the complaint is dismissed, in accordance with the warnings in Court's prior orders. The Clerk of the Court is directed to mail a copy of this Order to the *pro se* plaintiff at his last known address and to mark this case closed.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

SO ORDERED.

/s/ (JMA)
Joan M. Azrack
United States District Judge

Dated: May 22, 2020
Central Islip, New York